

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2030

(Reference to printed bill)

1 Page 9, between lines 25 and 26, insert:

2 "Sec. 5. Section 32-1123, Arizona Revised Statutes, is amended to
3 read:

4 32-1123. Unlicensed contractors; contract bidding; license
5 denial; exemptions; warning

6 A. Except as provided in subsection D of this section, if an entity
7 that is not licensed pursuant to this chapter bids on a contract for a
8 project with an aggregate worth of more than one thousand dollars, excluding
9 any electrical fixture or appliance that was designed by the manufacturer,
10 that is unaltered, unchanged or unmodified by any person, that can be plugged
11 into a common household electrical outlet utilizing a two pronged or three
12 pronged electrical connector and that does not use any other form of energy,
13 including natural gas, propane or other petroleum or gaseous fuel, to operate
14 or is attached by a nail, screw or other fastening device to the frame or
15 foundation of any residential structure, **FOR ONE YEAR AFTER THE DATE OF THE**
16 **BID** the registrar shall not issue ~~the entity~~ a license pursuant to this
17 chapter ~~for one year after the date of the bid~~ **TO ANY OF THE FOLLOWING:**

18 1. **THE ENTITY.**

19 2. **A PERSON WHO:**

20 (a) **IS A MEMBER OF THE ENTITY, A QUALIFYING PARTY OF THE ENTITY, A**
21 **PARTNER OF THE ENTITY, ANY DIRECTOR OR OFFICER OF THE ENTITY, A TRUSTEE OF**
22 **THE ENTITY IF THE ENTITY IS A TRUST OR A BENEFICIARY OF THE ENTITY IF THE**
23 **ENTITY IS A TRUST.**

24 (b) **OWNS AT LEAST TWENTY-FIVE PER CENT OF THE STOCK OR BENEFICIAL**
25 **INTEREST OF THE ENTITY.**

26 3. **AN ENTITY WITH COMMON MEMBERSHIP, QUALIFYING PARTIES, PARTNERS,**
27 **OFFICERS, DIRECTORS, TRUSTEES, BENEFICIARIES OR OWNERSHIP AS THE ENTITY IF**

1 THE OWNERSHIP CONSISTS OF AT LEAST TWENTY-FIVE PER CENT OF THE STOCK OR
2 BENEFICIAL INTEREST OF EACH ENTITY.

3 B. This section does not apply to an entity that bids on a contract
4 for either of the following:

5 1. A department of transportation project.

6 2. A project that is subject to the federal acquisition regulation,
7 title 48 Code of Federal Regulations, including the department of defense
8 federal acquisition regulation.

9 C. This section does not affect the licensing exemptions prescribed in
10 section 32-1121.

11 D. If an entity bids on a contract for a project pursuant to
12 subsection A of this section and the project has an aggregate worth of more
13 than one thousand dollars, excluding any electrical fixture or appliance that
14 was designed by the manufacturer, that is unaltered, unchanged or unmodified
15 by any person, that can be plugged into a common household electrical outlet
16 utilizing a two pronged or three pronged electrical connector and that does
17 not use any other form of energy, including natural gas, propane or other
18 petroleum or gaseous fuel, to operate or is attached by a nail, screw or
19 other fastening device to the frame or foundation of any residential
20 structure, and less than twenty thousand dollars, the registrar shall issue
21 the entity a written warning relating to the unlicensed activity if the
22 registrar has not previously issued the entity a warning."

23 Renumber to conform

24 Page 10, between lines 21 and 22, insert:

25 "Sec. 7. Section 32-1136, Arizona Revised Statutes, is amended to
26 read:

27 32-1136. Statute of limitations; recovery from fund

28 A. ~~An action for a judgment which may subsequently result in an order~~
29 ~~for collection~~ A CLAIM FOR RECOVERY from the fund shall not be commenced
30 later than two years ~~from~~ AFTER the date ~~of the commission of the act by the~~
31 ~~contractor that is the cause of the injury or from the date of occupancy.~~
32 ~~When any injured person commences action for a judgment which may result in~~

1 ~~collection from the fund, the injured person shall notify the registrar in~~
2 ~~writing to this effect at the time of the commencement of the action. The~~
3 ~~registrar may at any time intervene in and defend any such action~~ THAT THE
4 RESPONSIBLE RESIDENTIAL CONTRACTOR'S LICENSE WAS REVOKED, SUSPENDED OR PLACED
5 ON DISCIPLINARY PROBATION.

6 ~~B. When any injured person recovers a valid judgment against any~~
7 ~~residential contractor for such act, representation, transaction or conduct~~
8 ~~which is in violation of this chapter or the rules adopted pursuant to this~~
9 ~~chapter, the injured person may on twenty days' written notice to the~~
10 ~~registrar apply to the court for an order directing payment out of the fund,~~
11 ~~of the amount unpaid on the judgment, subject to the limitations stated in~~
12 ~~this article. If the injured person failed to give notice to the registrar~~
13 ~~at the time of commencement of the action as required by subsection A of this~~
14 ~~section, the court may direct payment out of the fund upon receipt of a~~
15 ~~consent to payment signed on behalf of the registrar. If the injured person~~
16 ~~has given notice to the registrar as required by subsection A of this~~
17 ~~section, the court may direct payment out of the fund either on receipt of a~~
18 ~~consent to payment signed on behalf of the registrar or, in the absence of~~
19 ~~any written consent, after the notice period required by subsection B of this~~
20 ~~section. If the court receives written objections by the registrar, the~~
21 ~~court shall not direct payment from the fund without affording the registrar~~
22 ~~a reasonable opportunity to present and support his objections.~~

23 B. IF A RESIDENTIAL CONTRACTOR'S LICENSE HAS BEEN REVOKED, SUSPENDED
24 OR PLACED ON DISCIPLINARY PROBATION AS A RESULT OF A VIOLATION OF THIS
25 CHAPTER, THE REGISTRAR MAY ORDER PAYMENT FROM THE RESIDENTIAL CONTRACTORS'
26 RECOVERY FUND AS PRESCRIBED IN THIS ARTICLE TO COMPENSATE AN ELIGIBLE
27 CLAIMANT FOR ACTUAL DAMAGES CAUSED BY A RESIDENTIAL CONTRACTOR'S VIOLATION OF
28 THIS CHAPTER. IF THE CONTRACTOR CONTESTS THE AMOUNT OR PROPRIETY OF THE
29 PAYMENT, THE CONTRACTOR SHALL RESPOND WITHIN TEN DAYS AFTER THE DATE OF
30 SERVICE BY REQUESTING A HEARING TO DETERMINE THE AMOUNT OR PROPRIETY OF THE
31 PAYMENT. FAILURE BY THE CONTRACTOR TO RESPOND IN WRITING WITHIN TEN DAYS
32 AFTER THE DATE OF SERVICE IS A WAIVER BY THE CONTRACTOR OF THE RIGHT TO

1 CONTEST THE AMOUNT CLAIMED OR TO BE AWARDED. SERVICE MAY BE MADE BY PERSONAL
2 SERVICE TO THE CONTRACTOR OR BY MAILING A COPY OF THE NOTICE BY REGISTERED OR
3 CERTIFIED MAIL WITH POSTAGE PREPAID TO THE CONTRACTOR'S LATEST ADDRESS OF
4 RECORD ON FILE IN THE REGISTRAR'S OFFICE. IF SERVICE IS MADE BY REGISTERED
5 OR CERTIFIED MAIL, IT IS EFFECTIVE FIVE DAYS AFTER THE NOTICE IS MAILED.
6 EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, THE CONTRACTOR OR
7 INJURED PERSON MAY SEEK JUDICIAL REVIEW OF THE REGISTRAR'S FINAL AWARD
8 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

9 C. The injured person shall not be the spouse of the residential
10 contractor or the personal representative of the spouse of the residential
11 contractor.

12 D. ~~The court shall proceed on an application in a summary manner and,~~
13 ~~on the hearing, the~~ injured person is required to show that he:

14 ~~1. Has given notice as required by subsections A and B of this~~
15 ~~section.~~

16 ~~2. Has obtained a judgment which has become final, as provided in~~
17 ~~subsection B of this section, stating the amount and the amount owing at the~~
18 ~~date of the application.~~

19 ~~3.~~ 1. Has proceeded against any existing bond covering the
20 residential contractor and has not collected upon such bond an amount of
21 thirty thousand dollars or more, except when the award is made pursuant to
22 subsection E of this section or section 32-1154.

23 ~~4.~~ 2. Is not aware of any personal or real property or other assets
24 of the debtor which can be applied in satisfaction of the judgment.

25 E. ~~The court shall make an order directed to the registrar requiring~~
26 ~~payment from the fund of whatever sum it finds to be payable on the claim, in~~
27 ~~accordance with this section, if the court is satisfied on the hearing of the~~
28 ~~truth of all matters required to be shown by the injured person by subsection~~
29 ~~D of this section. The recovery limits established under this article apply~~
30 ~~to all judgments awarded after September 1, 2002.~~ If the injured person has
31 recovered a portion of his loss from sources other than the fund, the
32 registrar, ~~if the award is made pursuant to section 32-1154, or the court~~

1 shall deduct the amount recovered from other sources from the amount of
2 actual damages suffered pursuant to section 32-1132, subsection A and direct
3 the difference, not to exceed thirty thousand dollars, to be paid from the
4 fund.

5 ~~F. On receipt of a certified copy of the order specified in subsection~~
6 ~~E of this section, the registrar may authorize payment from the residential~~
7 ~~contractors' recovery fund even if an appeal has been instituted but not~~
8 ~~completed.~~

9 Sec. 8. Section 32-1137, Arizona Revised Statutes, is amended to read:
10 32-1137. Notice of authorized payment to injured person

11 On authorization of payment from the residential contractors' recovery
12 fund, the registrar shall notify the injured person that:

13 1. The amount authorized for payment is subject to repayment by the
14 recipient if the ~~judgment of the court is finally~~ ORDER OF THE REGISTRAR IS
15 reversed.

16 2. It is the responsibility of the recipient to respond to an appeal
17 from the ~~judgment~~ ORDER OF THE REGISTRAR.

18 3. On appeal from the ~~judgment~~ ORDER, postponement of acceptance by
19 the injured person of the amount authorized for payment does not operate as a
20 waiver of any rights of the injured person.

21 Sec. 9. Section 32-1139, Arizona Revised Statutes, is amended to read:
22 32-1139. Liability of fund for each residential contractor's

23 license; suspension of license; repayment

24 A. The liability of the fund shall not exceed two hundred thousand
25 dollars for any one residential contractor's license. If claims against the
26 fund on behalf of any one residential contractor's license exceed two hundred
27 thousand dollars, the claims shall be paid in order of the date of entry of
28 the order of the registrar ~~or court~~, and the registrar ~~or a court~~ ON entering
29 an order for payment after the sum of two hundred thousand dollars has been
30 paid from the fund shall modify the order indicating that no further recovery
31 from the fund shall be allowed.

1 B. If any amount is paid from the fund in settlement of a claim
2 arising from the act, representation, transaction or conduct of a residential
3 contractor, the license of the contractor shall be automatically suspended
4 by operation of law until the amount paid from the fund is repaid in full,
5 plus interest at the rate of ten per cent a year. Any person who is or was,
6 at the time of the act or omission, named on a license that has been
7 suspended because of a payment from the recovery fund is not eligible to
8 receive a new license or retain another existing license that also shall be
9 suspended by operation of law, nor shall any suspended license be
10 reactivated, until the amount paid from the fund is repaid as provided in
11 this subsection."

12 Renumber to conform

13 Page 11, line 7, strike "~~one~~ TWO" insert "one"

14 Lines 11 and 12, strike "~~seventy-five~~ ONE HUNDRED FIFTY" insert "seventy-five"

15 Line 16, strike "~~fifty~~ ONE HUNDRED" insert "fifty"

16 Line 21, strike "~~twenty-five~~ FIFTY" insert "twenty-five"

17 Line 26, strike "~~fifteen~~ THIRTY" insert "fifteen"

18 Line 30, strike "~~five~~ TEN" insert "five"

19 Line 36, strike "~~fifty~~ ONE HUNDRED" insert "fifty"

20 Lines 40 and 41, strike "~~thirty-seven~~ SEVENTY-FIVE thousand ~~five hundred~~" insert
21 "thirty-seven thousand five hundred"

22 Page 12, line 1, strike "~~twenty-five~~ FIFTY" insert "twenty-five"

23 Lines 6 and 7, strike "~~seventeen~~ THIRTY-FIVE thousand ~~five hundred~~" insert
24 "seventeen thousand five hundred"

25 Lines 11 and 12, strike "~~seven~~ FIFTEEN thousand ~~five hundred~~" insert "seven
26 thousand five hundred"

27 Line 15, strike "~~two~~ FIVE thousand ~~five hundred~~" insert "two thousand five
28 hundred"

29 Page 16, lines 2 and 3, strike "; recovery fund award"

30 Page 18, strike lines 31 through 45

31 Page 19, strike lines 1 through 8

32 Page 19, after line 16, insert:

1 "Sec. 13. Effective date
2 Section 32-1152, Arizona Revised Statutes, as amended by this act, is
3 effective from and after December 31, 2011."
4 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
Chairman

2030-com
2/13/08
H:jjb

2030bk*
01/24/2008
8:45 AM
C: mu

2030mr
01/30/2008
1:48 PM
C: mu